

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VINCENT REYNOV, an individual, on
behalf of himself, and on behalf of
all persons similarly situated,

Plaintiff,

v.

ADP CLAIMS SERVICES GROUP, INC.,
AUTOMATIC DATA PROCESSING, INC., and
DOES 1 through 100,

Defendants.

No. C 06-2056 CW

ORDER GRANTING
SUMMARY JUDGMENT FOR
DEFENDANTS

Defendant ADP Claim Services Group (CSG) has filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56(b).¹ Plaintiff Victor Reynov opposes the motion. The matter was heard on April 26, 2007. Having considered all of the papers filed by the parties and oral argument on the motion, the Court GRANTS summary judgment for Defendants.

BACKGROUND

This case arises out of a dispute regarding the exempt classification of Reynov and other senior software quality assurance (QA) engineers. Reynov worked as a senior software QA engineer for CSG in San Ramon, California from November, 2003

¹Automatic Data Processing, Inc. (ADP) is a co-defendant in this case and has filed a concurrent motion to dismiss for lack of personal jurisdiction. The Court grants that motion in a separate order. Summary judgment would be appropriate for Plaintiff's claims against ADP as well.

1 through May 20, 2005. Ware Decl. ¶ 5, 8. At that time, CSG was a
2 wholly-owned corporate subsidiary of ADP. CSG classified Reynov as
3 an exempt employee and paid him an annual salary of approximately
4 \$76,000. Id. According to CSG, Reynov was properly classified as
5 an exempt employee because he performed specialized and technical
6 work which required special training, experience and knowledge.
7 Blazquez Decl. ¶ 9. Further, CSG argues that Reynov regularly
8 exercised independent judgment and was only under general
9 supervision. Id. at ¶ 8, 10.

10 During the first quarter of 2005, Reynov complained to
11 attorney Scott Miller of "a number of California Labor Code
12 Violations" related to his employment with CSG, and sought his
13 representation. Miller Decl. ¶ 4, 5. On April 20, 2005, Reynov
14 signed an agreement to retain Miller to represent him "in all
15 claims for violations of the Labor Code and any other related laws
16 against Automatic Data Processing, Inc." Meckley Decl. ¶ 4, Ex. 6.

17 On May 20, 2005, one month after hiring Miller to represent
18 him, Reynov quit his job with CSG. Ware Decl. ¶ 8. On May 26,
19 2005, Reynov signed a "Letter Agreement and Release" (Letter
20 Agreement) concerning his employment separation from CSG. Ex. 9.
21 The cover letter stated that the purpose of the Letter Agreement
22 was to provide Reynov with "certain benefits that you would not
23 otherwise receive, and resolve any remaining issues between you and
24 CSG." Id. According to CSG, Reynov received substantial
25 compensation to which he was not otherwise entitled, including a
26 severance payment in excess of \$29,000. Ware Decl. ¶ 12; Ex. 9.
27 The release in the Letter Agreement relieved CSG and its affiliates
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1 from "all claims, actions, and causes of action, of every kind,
2 nature, and description, which exist as of the date you sign this
3 Letter Agreement, arising out of or related to your employment."
4 Id. The release advised Reynov to consult with his attorney before
5 signing, and granted him seven days after signing to revoke his
6 acceptance of the agreement. Id. The release also contained an
7 express waiver of all rights under California Civil Code § 1542.
8 Id. Reynov does not dispute that he signed the Letter Agreement
9 and Release.

10 CSG also paid Reynov his outstanding salary, unused vacation,
11 and other wages owed him. Ware Decl. ¶ 10, 11; Ex. 1. This
12 payment was not conditioned on his signing the Letter Agreement or
13 Release. Id.

14 Miller associated other attorneys to assist him with Reynov's
15 case. The attorneys drafted a complaint alleging violations of
16 several California statutes based on an alleged misclassification
17 of Reynov, and all others with his job title, as salaried exempt
18 employees. The complaint was filed in Contra Costa County Superior
19 Court on January 31, 2006. The case was removed to this Court on
20 March 17, 2006. CSG now moves for summary judgment, arguing that
21 the release waives all the claims that Reynov brought against it.

22 LEGAL STANDARD

23 Under Rule 56, summary judgment is properly granted when no
24 genuine and disputed issues of material fact remain, and when,
25 viewing the evidence most favorably to the non-moving party, the
26 movant is clearly entitled to prevail as a matter of law. Fed. R.
27 Civ. P. 56; Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986);

Eisenberg v. Ins. Co. of N. Am., 815 F.2d 1285, 1288-89 (9th Cir. 1987).

DISCUSSION

CSG argues that when Reynov signed the Letter Agreement, he executed a valid and enforceable release of all claims, including his claim for unpaid overtime. Reynov counters that the subject of overtime pay was neither discussed nor addressed in the Letter Agreement, and therefore cannot be considered a good faith dispute that the parties compromised. Reynov also contends that he was unaware of his potential overtime claims when he signed the Letter Agreement. Finally, Reynov asserts that the release he signed was a general release that is not legally enforceable under California Labor Code § 206.5.²

California Labor Code § 206.5 provides:

No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made. Any release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee and the violation of the provisions of this section shall be a misdemeanor.

Section 206.5 must be interpreted in conjunction with section 206(a), which states:

In case of a dispute over wages, the employer shall pay, without condition and within the time set by this article, all

²Although the parties focus on section 206.5, Reynov also cites California Labor Code sections 219 and 1194(a). Section 219 provides that the provisions of Article 1 of Chapter 1 of Part 1 of Division 2 of the Labor Code, which includes § 206.5, cannot be set aside by private agreements. Section 1194(a) renders unenforceable prospective agreements to waive overtime compensation. Neither section is relevant here because the Letter Agreement does not set aside § 206.5 or waive prospective overtime compensation.

1 wages, or parts thereof, conceded by him to be due, leaving to
2 the employee all remedies he might otherwise be entitled to as
to any balance claimed.

3 Accordingly, "in a dispute over wages the employer may not
4 withhold wages concededly due to coerce settlement of the disputed
5 balance. An employer and employee may of course compromise a bona
6 fide dispute over wages but such a compromise is binding only if it
7 is made after the wages concededly due have been unconditionally
8 paid." Reid v. Overland Machined Products, 55 Cal. 2d 203, 207
9 (1961); Sullivan v. Del Conte Masonry Co., 238 Cal. App. 2d 630,
10 634 (1965). In Reid, the California Supreme Court rejected an
11 argument that accord and satisfaction was shown when an employee
12 cashed his employer's check for "concededly due" wages. Id. at
13 208. The court implied that acceptance of payment beyond the
14 indisputably owed amount would have constituted a legally binding
15 settlement of the controversy.

16 As this Court found in Kelley et. al. v. Pacific Telesis, et.
17 al., No. 97-CV-02729, "nothing in § 206.5 purports to limit its
18 scope to actions filed directly under the Labor Code. A UCL claim
19 based on an unlawful failure to pay wages due is a claim 'on
20 account of wages due.'" Thus, § 206.5 applies to Reynov's claims
21 under the California Labor Code and to those under California
22 Business and Professions Code § 17200.

23 Nonetheless, the release contained in the Letter Agreement is
24 enforceable as a matter of law. The release contained an express
25 waiver of all rights under California Civil Code § 1542, which
26 prevents a "general release" from extending to claims unknown to
27 the creditor at the time the release is signed. In the absence of
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1 actual fraud, an express waiver of § 1542 rights is valid. Pacific
2 Greyhound Lines v. Zane et al., 160 F.2d 731, 736 (9th Cir. 1947).

3 Further, section 206.5 voids releases of claims "on account of
4 wages due." Based on the abovementioned authorities, the Court
5 finds that wages are not "due" if there is a good faith dispute as
6 to whether they are owed. Because CSG's defense that Reynov was an
7 exempt employee under California law would, if successful, preclude
8 any recovery for Reynov, a bona fide dispute exists and the
9 overtime pay cannot be considered "concededly due." Sullivan, 238
10 Cal. App. 2d at 634; see also 8 C.C.R. § 13520 (defining a "good
11 faith dispute" concerning wages as a dispute that occurs "when an
12 employer presents a defense, based in law or fact which, if
13 successful, would preclude any recovery on the part of the
14 employee.")

15 As the legislative history submitted by CSG demonstrates,³ the
16 purpose behind § 206.5 was to prevent "unscrupulous employers,"
17 particularly in the construction industry, from withholding a
18 worker's paycheck unless he signed a release waiving all rights to
19 additional compensation owed. The legislation was intended to
20 cover situations where payments in exchange for a complete release
21 of claims were not only indisputably owed, they were often far less
22 than the indisputably owed amount.

23 In this case, CSG unconditionally paid Reynov all outstanding
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25 ³The Court grants CSG's request for judicial notice of the
26 legislative history of Labor Code § 206.5. Because the legislative
27 history cited is easily verifiable and the content of the sources
28 cannot reasonably be questioned, judicial notice is appropriate
under FRE 201.

1 wages owed to him. Additionally, he was given nearly \$30,000,
2 compensation to which he was not otherwise entitled, as
3 consideration for releasing CSG from any and all claims he might
4 bring. Reynov has not raised a genuine issue of material fact
5 suggesting that he was legally entitled to the nearly \$30,000
6 compensation above his remaining salary and unused vacation pay,
7 and therefore his acceptance of that payment satisfied whatever
8 legal claims he might otherwise have brought against CSG.

9 Contrary to Reynov's assertions, it is irrelevant that CSG did
10 not specify his potential overtime claims in the language of the
11 release. The release also failed to specify the alleged age
12 discrimination claim which Reynov argues was the only claim
13 actually waived by the release. Likewise, Reynov's argument that
14 he was unaware of his potential overtime claims when he signed the
15 Letter Agreement is unavailing.⁴ Rather, the crucial fact is that
16 Reynov accepted substantial compensation to settle a bona fide
17 dispute.

18 Because the release Reynov signed is legally enforceable,
19 Reynov's claims for compensation for overtime, waiting time, meal
20 and rest periods and civil penalties must fail.⁵ Likewise, his
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22 ⁴The Court nonetheless notes that Reynov has provided evidence
23 in a sworn declaration to this Court that he was aware of his
potential overtime claims when he signed the Letter Agreement.

24 ⁵The complaint requests penalties under California Labor Code
25 § 558. However, it appears that Plaintiff has not complied with
26 the administrative requirements for bringing a civil action under
27 § 558. These requirements include notifying the employer by
certified mail and giving the state a formal opportunity to
investigate, among others. California Labor Code § 2699.3.
Accordingly, Plaintiff cannot recover penalties under § 558.

1 second cause of action alleging that CSG engaged in unfair business
2 practices must be dismissed.

3 CONCLUSION

4 For the foregoing reasons, the Court GRANTS CSG's motion for
5 summary judgment (Docket No. 50). Judgment shall be entered
6 accordingly. Each party shall bear its own costs.

7 IT IS SO ORDERED.

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9 Dated: 4/30/07 _____


10 CLAUDIA WILKEN
11 United States District Judge
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